

The Honorable John R. Padova
Policies and Procedures
Civil Actions

Staff Contacts

Chambers Deputy: **Gerrie Keane** - 215-597-1178
Contact Gerrie for matters relating to scheduling, case management
and general procedures.

ESR/Deputy: **Andrea Mack** -215-299-7409
Contact Andrea for matters regarding courtroom proceedings, trial
setup, exhibits and transcripts.

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May, 2001

Communications With Law Clerks

Judge Padova strongly discourages communication with law clerks. All telephone inquiries should be directed to one of the Judge's Deputies.

Telephone Conferences

Judge Padova sometimes uses telephone conferences for non-complex pretrial conferences, scheduling, discovery disputes, settlement conferences and other like matters. Judge Padova requires that telephone conferences be arranged through his Chambers Deputy. Counsel have the responsibility to initiate telephone conferences and to contact Judge Padova through his deputy after all other parties are present on the call.

Oral Arguments and Evidentiary Hearings

Judge Padova does not set aside any certain days or times for oral argument on motions or evidentiary hearings.

Pro Hac Vice Admissions

Counsel not admitted to practice in the Eastern District of Pennsylvania must be sponsored for admission *pro hac vice* by a member of the bar of this Court. Judge Padova requires a written motion for admission on or before the day of the first appearance of counsel seeking admission.

Briefs of Cases Appealed

Judge Padova generally expects to receive copies of appellate briefs when a decision rendered by him is appealed.

Consultation With Opposing Counsel

Judge Padova expects counsel to bring matters to his attention only after they have been discussed with opposing counsel. All parties must be represented on any telephone conference with Judge Padova.

Correspondence With the Court

Judge Padova permits correspondence under the circumstances set forth in his standard Notice to Counsel, which is routinely sent to counsel promptly after assignment of a case to Judge Padova. A copy of the Notice is attached. Otherwise, all other communications with the Court should be by the filing of pleadings, motions, applications, briefs or legal memoranda.

Pretrial Conferences

Judge Padova regularly schedules an initial pre-trial conference within 35 days of the filing of answers or pre-answer motions by all defendants in cases assigned to the standard management track under section 1:01 of the Civil Justice Expense and Delay Reduction Plan for the Eastern District of Pennsylvania (the "Plan"). Such a conference is always scheduled within 30 to 60 days of the filing of the complaint in cases assigned to the Special Management Track, as provided in section 3:01 of Plan. The Chambers Deputy schedules the initial pre-trial conference.

At least three days prior to the pretrial conference, counsel must submit a completed Scheduling Information Report. Counsel must also timely submit the discovery plan adopted at the Rule 26(f) conference in accordance with the Federal Rules of Civil Procedure, but no later than three days prior to the scheduled pretrial conference. The Court's processes and procedures rely on counsel's good faith compliance in all respects with Rule 26(f). The Rule 26(f) meeting shall take place as soon as possible and, in any event, at least fourteen days before the scheduling conference. Such compliance is of the highest degree mandatory. **Parties who do not comply will have no voice at the scheduling conference and may be subject to additional sanctions.**

Topics that are frequently addressed in an initial pre-trial conference include those listed in Local Rule 16.1(b), Federal Rule of Civil Procedure 16(b) and (c) and the progress of self-executing disclosure under Federal Rule of Civil Procedure 26(a). Judge Padova further requires that counsel taking part in all pre-trial conferences be prepared to speak on the subjects outlined in section 8:01 and Chapter IX of the Plan and have authority from their clients to do so. A Rule 16 scheduling order is issued at the conclusion of the conference. Judge Padova uses a standard form of scheduling order for standard track cases, a copy of which is attached.

Judge Padova typically holds a final pretrial conference sometime during the month before trial is scheduled. At that time, outstanding topics that were the subject of the initial pretrial conference are typically addressed, as well as settlement, resolution of motions in limine, and trial procedure.

Continuances and Extensions

Judge Padova has a general policy of adhering to originally scheduled dates unless a compelling reason is presented that justifies a change. This policy applies to briefing schedules, oral argument, evidentiary hearings, discovery deadlines and trial dates.

Counsel should advise the Court immediately, and *before the date has run*, of any compelling reason justifying an extension or continuance of any originally scheduled date. Any request for an extension or continuance shall be made by formal motion for cause shown if the case is not close to trial (except as provided in paragraph I (3) of the "Notice to Counsel.") If

there is an agreement, a stipulation of counsel should be attached as an exhibit to the motion; however, Court approval is required.

Motion Practice

Oral Argument on Motions

If Judge Padova determines that oral argument will aid in deciding the matter, he will order argument or grant a request by counsel to be heard. Requests should be made in writing at the time of filing a motion or reply as part of the moving papers.

Reply and Surely Briefs

Judge Padova considers motions “ripe” when a response has been filed. Reply and surreply briefs may only be filed with leave of the Court. Counsel should file a motion requesting leave to file additional briefing and attach the proposed reply as an exhibit.

Chambers Copies of Motion Papers

Judge Padova requires that one courtesy copy of motion papers be sent to his chambers.

Discovery Matters

Length of Discovery Period and Extensions

At the initial pretrial conference, Judge Padova will set a discovery period. Judge Padova usually allows 60 to 90 days to complete discovery from the date when all defendants have entered their appearance.

Discovery Conferences and Dispute Resolution

Judge Padova normally does not hold discovery conferences, but encourages the use of telephone conferences in lieu of motion practice to resolve discovery disputes. When a discovery *default* occurs, Judge Padova encourages counsel to file a motion to compel, which he will usually grant upon presentation pursuant to Local Civil Rule 26.1(g). When a discovery *dispute* occurs, and counsel have been unable to resolve it themselves or with Judge Padova’s assistance by telephone, he requires a motion to compel. Judge Padova expects discovery to be voluntary and cooperative in accordance with the Federal Rules of Civil Procedure and the Plan.

Confidentiality Agreements

Parties may agree privately to keep documents and information confidential. The Court may enter an Order of Confidentiality only after making a specific finding of good cause based on a particularized showing that the parties’ privacy interests outweigh the public’s right to

obtain information concerning judicial proceedings. See Pansy v. Borough of East Stroudsburg, 23 F.3d 772, 786 (3d Cir. 1994).

Expert Witnesses

Counsel are required to identify expert witnesses and provide curriculum vitae and, as to all experts, voluntarily exchange the information referred to in Federal Rule of Civil Procedure 26(a)(2)(B) by expert report, deposition or answer to expert interrogatory in accordance with the dates outlined in the Court's scheduling orders. Except for good cause, expert testimony will be limited at trial to the information provided.

Settlement

At the earliest appropriate point, Judge Padova takes an active role in settlement discussions. This point is typically reached in the initial pretrial conference. Judge Padova may hold an early Resolution Hearing in court at which individual parties, or the principals of corporate parties, are present, and he often recommends settlement figures or alternative methods of dispute resolution. Judge Padova prefers not to participate in settlement negotiations in non-jury cases. He typically refers such cases to a Magistrate Judge for settlement.

Judge Padova will occasionally refer a case to another District Court Judge for settlement.

Arbitration

Scheduling of Trial De Novo From Arbitration

Once a trial *de novo* is demanded, Judge Padova issues a standard form scheduling order, a copy of which is attached. If counsel believe that a settlement conference would be helpful, Judge Padova is willing to meet with the parties upon their request. Ordinarily, Judge Padova does not allow additional discovery. Counsel can expect the case to be placed in the trial pool within thirty days.

Final Pretrial Memoranda

The Rule 16 Scheduling Order will specify the items to be included in all pretrial memoranda and the filing dates. Judge Padova uses a standard form order, which is attached.

Injunctions

Scheduling and Expedited Discovery

Judge Padova's usual practice is to hold a conference with counsel before scheduling temporary restraining order and preliminary and permanent injunction hearings. Judge Padova usually handles requests for expedited discovery by telephone conference. When a complaint is

accompanied by a Motion for a Temporary Restraining Order or Preliminary Injunction, Judge Padova will contact counsel and schedule a hearing.

Proposed Findings of Fact and Conclusions of Law

Parties shall submit proposed findings of fact and conclusions of law in accordance with the deadlines set forth in the Rule 16 scheduling Order. Two copies should be sent to Chambers. Judge Padova also encourages that the parties submit a computer diskette in WordPerfect 9.0 for Windows format.

Trial Procedure

Scheduling Cases

Cases may be placed in the trial pool or assigned a date certain for commencement of trial.

Cases Involving Out-of-Town Parties or Witnesses

Trial scheduling by Judge Padova does not change by the presence of out-of-town parties or witnesses. Judge Padova leaves the scheduling of witnesses to counsel.

Conflicts of Counsel

When counsel become aware of professional or personal conflicts that may effect the trial schedule, they should notify Judge Padova and opposing counsel immediately. Such notice may be given to Judge Padova's Chambers Deputy by telephone, but it must be confirmed in writing.

Notetaking by Jurors

Judge Padova permits jurors to take notes and will issue an instruction on juror notetaking similar to that found in *United States v. MacLean*, 578 F.2d 64 (3d Cir. 1978).

Voir Dire

Judge Padova ordinarily asks a standard set of voir dire questions. Parties should file proposed voir dire questions by the deadline set forth in the Rule 16 scheduling order for the submission of proposed jury instructions.

Trial Briefs

Judge Padova encourages the submission of two copies of trial briefs.

In Limine Motions

Judge Padova requires counsel to submit two copies of motions *in limine* in accordance with the deadlines set forth in the Rule 16 scheduling order.

Examination of Witnesses Out of Sequence

Judge Padova will permit counsel to take witnesses out of turn for the convenience of the witness, subject, of course, to objection by opposing counsel.

Opening Statements and Summations

Judge Padova normally attempts to obtain the agreement of counsel regarding time limits to be placed on opening statements and summations. However, Judge Padova believes that twenty to thirty minutes is usually adequate for an opening statement and thirty to forty-five minutes is usually adequate for a summation.

Examination of Witnesses or Argument by More Than One Attorney

Judge Padova will permit more than one attorney for a party to examine different witnesses or to argue different points before the Court, but he will not permit two attorneys for a party to examine the same witness or argue the same point.

Examination of Witnesses Beyond Redirect and Recross

Judge Padova does not have a general policy regarding further examination of a witness after redirect or recross have been completed. Where appropriate, he will allow it, but he will not permit any repetition or rehashing.

Videotaped Testimony

Videotaped testimony should begin with the witness being sworn. Objections should be given to the Court well in advance of the tapes being offered so that the tapes may be appropriately edited. Objections should be accompanied by a copy of the transcript in order for the Court to issue a ruling.

Reading of Material Into the Record

Judge Padova has no special practice or policy of reading into the record stipulations, pleadings, or discovery material. He will permit it when necessary.

Preparation of Exhibits

Judge Padova requires that exhibits be pre-marked and pre-exchanged. At the commencement of trial, the parties shall provide the Court with three copies of a schedule of exhibits that shall briefly describe each exhibit. At the trial, the parties shall provide the Court with two copies of each exhibit at the time of its first use at trial.

Offering Exhibits Into Evidence

Judge Padova prefers that counsel offer exhibits into evidence at the close of testimony by the first witness testifying about the exhibit unless the exhibit is objected to, in which event it should not be testified to unless it is received into evidence.

Motions for Judgment as a Matter of Law and Motions for Judgment on Partial Findings

Judge Padova prefers that Rule 50 motions be in writing. Oral argument, if necessary, will be requested by the Court.

Proposed Jury Instructions and Verdict Forms

As set forth in his standard form of pretrial order, Judge Padova expects counsel to work together in submitting joint proposed jury instructions on substantive issues and proposed verdict forms or special interrogatories to the jury. In addition, Judge Padova requires that counsel submit individual proposed jury instructions on substantive issues and proposed verdict forms or special interrogatories to the jury on those issues that counsel cannot agree upon in their joint submissions. In all cases, one copy of the joint and/or individual submissions should be submitted to the Court (Chambers) *no later than the date provided in the Rule 16 scheduling order*. Judge Padova also encourages that the parties submit a computer diskette in WordPerfect 9.0 for Windows format. Each proposed instruction should be double-spaced on a separate sheet of paper. Cited cases and pattern jury instructions should be accurately quoted and specific page references should be given. Jury instructions need only be submitted with respect to substantive issues in the case. Proposed instruction on procedural matters such as the burden of proof, unanimity, and credibility are not required. Judge Padova may accept supplemental jury instructions until the start of closing argument.

Proposed Findings of Fact and Conclusions of Law

Judge Padova requires that proposed findings of fact and conclusions of law in non-jury cases be submitted in accordance with the date set forth in the Rule 16 scheduling order. Two copies should be sent to Chambers. Judge Padova also encourages that the parties submit a computer diskette in WordPerfect 9.0 for Windows format.

Jury Deliberations

Written Jury Instructions

Judge Padova generally does not give the jury written instructions, but may do so in complex cases.

Exhibits in the Jury Room

Judge Padova generally permits all trial exhibits to go out to the jury unless a well-founded objection is asserted.

Handling of Jury Requests to Read Back Testimony or Replay Tapes

Judge Padova will advise the jury that testimony is usually not in transcript form to give them. However, if a transcript is available, he will consider reading appropriate portions requested by the jury. He will usually allow tapes and videotapes to be replayed.

Availability of Counsel During Jury Deliberations

Counsel must remain in the courthouse during jury deliberations.

Taking the Verdict and Special Verdicts

Whether Judge Padova takes a general or special verdict depends on the case. If useful, Judge Padova will submit interrogatories to the jury.

Polling the Jury

Judge Padova grants all requests to poll the jury.

HONORABLE JOHN R. PADOVA

GENERAL FORMS

Notice to Counsel

Rule 16 Scheduling Order

Rule 16 Scheduling Order (de novo from arbitration)

Scheduling Information Report

UNITED STATES DISTRICT COURT
Eastern District of Pennsylvania
U.S. Court House
Independence Mall West
601 Market Street
Philadelphia, PA 19106-1797

KEYBOARD(), 2001

RE: Civil Action No. KEYBOARD()
KEYBOARD() vs. KEYBOARD()

NOTICE TO COUNSEL:

This notice sets forth my policy on discovery, my guidelines for communication with the Court and my Chambers staff, and a brief overview of the manner in which this case will generally progress in my Court. In addition to this Notice, I expect counsel to become familiar with my "Civil Action Procedures," which can be found on the Court's website at **www.paed.uscourts.gov**. On the Court's home page, click on "Judges' Procedures." Before calling Chambers with procedural questions, please consult this publication.

I. Communication with Chambers

Judge Padova strongly discourages communication with law clerks. Telephone inquiries should be directed to either my Chambers Deputy or Courtroom Deputy, as appropriate.

Chambers Deputy: Gerrie Keane - 215-597-1178
Contact my Chambers Deputy for matters relating to scheduling, case management and procedures.

ESR/Courtroom Deputy: Andrea Mack -215-299-7409
Contact my Courtroom Deputy for matters regarding courtroom proceedings, trial setup, and transcripts.

Please do not write letters directly to the Court, or send or designate copies of correspondence among and between counsel to the Court, except:

- (1) When letters of transmittal accompany documents required to be sent to, or filed with, the Court or in another official office in the Courthouse;
- (2) When counsel are specifically requested by the Court to communicate some information to the Court by letter;
- (3) When there is an uncontested request for a continuance of the Rule 16 Scheduling Order deadlines not affecting the trial date or pool placement;

- (4) When the participation of counsel in the case is expected to be affected by a personal matter concerning counsel, a party, a witness, or counsel's immediate family, such as medical problems, vacation plans, or other similarly personal problems or questions; or
- (5) To confirm or advise the Court that a case has been settled, dismissed, or otherwise finally disposed.

All other written communications with the Court concerning any case assigned to my calendar should be by the filing of a pleading, motion, application, brief, legal memorandum, busy slip, or other similar filing provided for in the Federal Rules of Civil or Criminal Procedure or our Local Rules of Civil or Criminal Procedure. **Do not write letters to the Court that are properly the subject of these filings.**

When a written communication concerning a case cannot timely address a problem, counsel may initiate necessary telephone communications with my Chambers. Issues appropriately addressed by telephone contact include:

Scheduling of conferences or proceedings, including pretrial and trial conferences; attendance of witnesses;

Exhibit handling or arrangements for video replay;

Arrangements for telephone conferences regarding discovery disputes; and

Requests for absolutely necessary extensions of time to file any response, reply, brief, memorandum of law, or the like.

All such inquiries should be directed to the appropriate Deputy. Counsel are advised that current telephone and fax number(s), and any changes thereto, are to be submitted to my Chambers Deputy.

II. Discovery

Discovery rules are not intended to create strategic advantages for any party and should never be used to play games. The Federal Rules of Civil Procedure and the Civil Justice Expense and Delay Reduction Plan for the United States District Court for the Eastern District of Pennsylvania (the "Plan") call for voluntary, cooperative discovery in a **timely** manner. Federal Rule of Civil Procedure 26(a) imposes a **duty** of self-executing disclosure of certain types of information. Compliance with the Rules and the Plan is mandatory. I expect that counsel will act in accordance with both the **letter** and the **spirit** of the Rules and Plan. Discovery disputes should be presented to the Court in the manner provided for in my "Civil Action Procedures."

III. Pretrial Procedure

The Chambers Deputy typically sends counsel notification of the scheduling of a pretrial conference to be held within 35 days after all defendants have answered or filed pre-answer motions. At least three days prior to the pretrial conference, counsel must submit a completed Scheduling Information Report.

Counsel must also timely submit the discovery plan adopted at the Rule 26(f) conference in accordance with the Federal Rules of Civil Procedure, but no later than three days prior to the scheduled pretrial conference. The Court's processes and procedures rely on counsel's good faith compliance in all respects with Rule 26(f). The Rule 26(f) meeting shall take place as soon as possible and, in any event, at least fourteen days before the scheduling conference. Such compliance is of the highest degree mandatory. **Parties who do not comply will have no voice at the scheduling conference and may be subject to additional sanctions.**

Topics which are frequently addressed in an initial pretrial conference include those listed in Local Rule of Civil Procedure 16.1(b), Federal Rule of Civil Procedure 16(b) and (c) and the progress of self-executing disclosure under Federal Rule of Civil Procedure 26(a). A Rule 16 Scheduling Order is issued at the conclusion of the conference containing either a specific trial date or pool listing, and dates and form of pretrial memoranda.

With the exception of a final pretrial conference (which usually takes place sometime during the month before trial is scheduled), no other conferences are normally scheduled unless requested by counsel. Settlement conferences are encouraged, provided counsel believe that they will be useful.

IV. Motions Practice

I consider a motion "ripe" when a response has been filed. Reply and surreply briefs may only be filed with leave of the Court. Counsel should file a motion requesting leave to file additional briefing and attach the proposed reply as an exhibit.

V. Electronic Filing System

I fully support and encourage the use of the Electronic Filing System for the submission of complaints, notices of appeal, notices of removal and other civil documents. The Electronic Filing System provides greater efficiency and timeliness in the filing of pleadings, as well as electronic storage of documents for remote access by the Court, the bar and the litigants. Applications are available from the Office of the Clerk of the Court, 601 Market Street, Room 2609, Philadelphia, PA 19106-1797, or by calling (215) 597-5711.

Your cooperation is **expected** and **appreciated**.

John R. Padova, J.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KEYBOARD()	:	CIVIL ACTION
	:	
v.	:	
	:	
KEYBOARD()	:	NO. KEYBOARD()

FEDERAL RULE OF CIVIL PROCEDURE 16 PRETRIAL SCHEDULING ORDER

STANDARD TRACK CASES

AND NOW, TO WIT, this KEYBOARD() day of KEYBOARD(), 200
KEYBOARD(), following a preliminary pretrial conference, IT IS ORDERED as follows:

1. All discovery shall proceed forthwith and continue in such manner as will assure that all requests for and responses to discovery will be served, noticed and completed by KEYBOARD().
2. On or before KEYBOARD(), counsel for each party shall serve upon counsel for every other party the information referred to in Federal Rule of Civil Procedure 26(a)(2)(B) by expert report, deposition, or answer to expert interrogatory. If the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party, counsel shall serve the information on counsel for every other party on or before KEYBOARD().
3. Dispositive motions shall be filed no later than KEYBOARD().
4. On or before KEYBOARD(), counsel for each party shall serve upon counsel for every other party:

(a) the original or a copy of each exhibit they expect to offer at trial in furtherance of their respective contentions. Each party shall mark its trial exhibits in advance of trial with consecutive numbers appropriately prefixed with an identifying letter of counsel's choice (i.e., P-1, P-2; D-1, D-2);

(b) curriculum vitae for each expert witness expected to testify; and

(c) a specific identification of each discovery item expected to be offered into evidence.

5. All parties shall prepare and file with the Clerk of Court their pretrial memoranda in accordance with this Order and Local Rule of Civil Procedure 16.1(c), as follows:

Plaintiffs - on or before **KEYBOARD()**.

Defendants - on or before **KEYBOARD()**.

All motions in limine shall be filed on or before **KEYBOARD()**. Responses thereto are due on or before **KEYBOARD()**

In addition to compliance with Local Rule of Civil Procedure 16.1(c), the parties shall include the following in, or attached to, their pretrial memoranda:

a. A listing of the identity of each expert witness to be called at trial by the party;

b. a curriculum vitae for each expert witness listed;

c. a listing of each fact witness to be called at trial with a brief statement of the nature of their expected testimony (witnesses not listed may not be called by that party in its case-in-chief);

d. an itemized statement of claimant's damages or other relief sought;

e. a statement of any anticipated important legal issues on which the Court will be required to rule, together with counsel's single best authority on each such issue.

One copy (1) of the pretrial memoranda shall be filed with the Clerk of the Court and two (2) copies shall be sent to the Court (Chambers).

6. A final pretrial conference for this matter will be held on **KEYBOARD()**, at **KEYBOARD()** in chambers (Room 6614).

7. (a) If a jury trial is scheduled, the parties shall file in writing with the Clerk of Court one (1) copy of joint proposed jury instructions on substantive issues and proposed verdict forms or special interrogatories to the jury. The parties shall also file one (1) copy of proposed jury instructions, verdict forms, or special interrogatories on those issues not agreed upon by the parties in their joint submission. These filings shall be made **on or before** **KEYBOARD()**. Jury instructions shall be submitted each on a separate sheet of paper, double spaced, with accurate quotes from and citations to cases and pattern jury instructions where appropriate.

(b) If a non-jury trial is scheduled, the parties shall file one (1) copy of proposed findings of fact and conclusions of law with the Clerk of the Court on or before **KEYBOARD()**. One (1) copy of the proposed findings of fact and conclusions of law shall be sent to the Court (Chambers).

8. **No later than three days** before the date trial is scheduled to commence if a date certain, or three days before case appears in the trial pool, the parties shall file a complete and comprehensive stipulation of uncontested facts pursuant to paragraph (d)(2)(b)(2) of Local Rule of Civil Procedure 16.1; the original shall be filed with the Clerk of the Court, and two (2) copies shall be submitted to the Court (Chambers).

9. At the commencement of trial, the parties shall provide the Court with three (3) copies of a schedule of exhibits which shall briefly describe each exhibit. At the trial, the parties shall provide the Court with two (2) copies of each exhibit at the time of its first use at trial.

10. This case will be listed for trial as follows:

Date Certain: KEYBOARD() at 10:00 a.m. in Courtroom 6-A.

Civil Trial Pool: KEYBOARD()

Counsel should consider themselves attached as of this date.

COUNSEL PLEASE NOTE: This Scheduling Order will be the only written notice counsel receive of the date this case will be tried. Counsel and all parties shall be prepared to commence trial on that date and as soon thereafter as counsel receive telephone notice that trial is to commence. If the case is a pool case, counsel should have the responsibility to maintain contact with the deputy clerk once the case goes into the pool. Every effort will be made to give counsel at least 24 hours notice and hopefully 48 hours notice of commencement of trial. Pool cases are to be ready for trial as of the date they are placed in the pool and are frequently not called in the order in which they appear.

11. Any party having an objection to: (a) the admissibility of any exhibit based on authenticity; (b) the adequacy of the qualifications of an expert witness expected to testify; (c) the admissibility for any reason (except relevancy) of any item of evidence expected to be offered, or (d) the admissibility of any opinion testimony from lay witnesses pursuant to Federal Rule of Evidence 701 shall set forth separately each such objection, clearly and concisely, in their pretrial memorandum. Such objection shall describe with particularity the ground and the authority for the objection. Unless the court concludes at trial that manifest injustice will result, the Court can

be expected to overrule any objection offered at trial in respect to any matter covered by (a), (b), (c) and/or (d) above, if the Court concludes that the objection should have been made as required by this Order.

12. Only those exhibits, discovery items and expert witnesses identified in the manner set forth in this Order shall be considered by the Court for admission into evidence at trial, unless stipulated to by all affected parties and approved by the Court, or by Order of Court so as to avoid manifest injustice.

13. Because a witness may be unavailable at the time of trial in the manner defined in Federal Rule of Civil Procedure 32(a)(3), the Court expects use of oral or videotape depositions at trial of any witness whose testimony a party believes essential to the presentation of that party's case, whether that witness is a party, a non-party or an expert. The unavailability of any such witness will not be a ground to delay the commencement or progress of an ongoing trial. In the event a deposition is to be offered, the offering party shall file with the Court, prior to the commencement of the trial, a copy of the deposition, but only after all efforts have been made to resolve objections with other counsel. Unresolved objections shall be noted in the margin of the deposition page(s) where a Court ruling is necessary.

JOHN R. PADOVA, J.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

v.) CIVIL ACTION
)
)
)
) NO.

**FEDERAL RULE OF CIVIL PROCEDURE 16 PRETRIAL
SCHEDULING ORDER FOR TRIAL *DE NOVO*
FROM ARBITRATION**

AND NOW, TO WIT, this _____ day of _____, 2001, IT IS
ORDERED as follows:

1. On or before _____, counsel for each party shall serve upon counsel
for every other party:

(a) the original or a copy of each exhibit they expect to offer at trial *de novo* in
furtherance of their respective contentions. Each party shall mark its trial *de novo* exhibits *in
advance of trial* with consecutive numbers appropriately prefixed with an identifying letter of
counsel's choice (*i.e.*, P-1, P-2, D-1, D-2);

(b) curriculum vitae for each expert witness expected to testify;

(c) the information referred to in Federal Rule of Civil Procedure 26(a)(2)(B)
by expert report, deposition or answer to expert interrogatory; and

(d) a specific identification of each discovery item expected to be offered into
evidence.

2. All parties shall prepare and file with the Clerk of Court their pretrial
memoranda, in accordance with this Order and Local Rule of Civil Procedure 21(c), as follows:

Plaintiffs--on or before _____;

Defendants-- on or before _____.

In addition to compliance with Local Rule of Civil Procedure 21(c), the parties
shall include the following in or attach to their pretrial memoranda:

a. A listing of the identity of each expert witness to be called at the
trial *de novo* by the party;

- b. A curriculum vitae of each expert witness listed;
- c. A listing of each fact witness to be called at the trial *de novo* with a brief statement of the nature of their expected testimony (witnesses not listed may not be called by that party in its case-in-chief);
- d. An itemized statement of claimant's damages or other relief sought;
- e. A statement of any anticipated important legal issues on which the Court will be required to rule, together with counsel's single best authority on each such issue.

One copy (1) of the pretrial memoranda shall be filed with the Clerk of the Court and one (1) copy shall be sent to the Court (Chambers).

3. (a) If a jury trial *de novo* is scheduled, the parties shall file in writing with the Clerk of Court one (1) copy of *joint* proposed jury instructions on substantive issues and proposed verdict forms or special interrogatories to the jury. The parties shall also file one (1) copy of proposed jury instructions, verdict forms, or special interrogatories on those issues not agreed upon by the parties in their joint submission. **These filings shall be made no later than _____**. Jury instructions shall be submitted each on a separate sheet of paper, double-spaced, with accurate quotes from and citations to cases and pattern jury instructions where appropriate. Two copies should be sent to the Court (Chambers). The Court also encourages that the parties submit a computer diskette in WordPerfect 8.0 for Windows format.

(b) If a non-jury trial *de novo* is scheduled, the parties shall file one (1) copy of proposed findings of fact and conclusions of law with the Clerk of the Court no later than _____. One (1) copy of the proposed findings of fact and conclusions of law shall be sent to the Court (Chambers). The Court also encourages that the parties submit a computer diskette in WordPerfect 8.0 for Windows format.

4. No later than three days before the date the trial *de novo* is scheduled to commence, the parties shall file a complete and comprehensive stipulation of uncontested facts pursuant to paragraph (d)(2)(b)(2) of Local Rule of Civil Procedure 21; the original shall be filed with the Clerk of the Court, and two (2) copies shall be submitted to the Court (Chambers).

5. At the commencement of the trial *de novo*, the parties shall file one (1) copy of all trial exhibits with the Clerk of the Court and one (1) copy with the Court (Chambers). The parties shall also file with the Clerk of the Court one (1) copy of a schedule of exhibits which shall briefly describe each exhibit. Two (2) copies of said schedule shall be filed with the Court (Chambers).

6. This case will be tried on _____, 2001.

COUNSEL PLEASE NOTE: This Scheduling Order will be the *only* written notice counsel receive of the date this case will be tried. Counsel and all parties shall be prepared to commence the trial *de novo* on that date and as soon thereafter as counsel receive telephone notice that the trial *de novo* is to commence.

7. Any party having an objection to: (a) the admissibility of any exhibit based on authenticity; (b) the adequacy of the qualifications of an expert witness expected to testify; (c) the admissibility for any reason (except relevancy) of any item of evidence expected to be offered; or (d) the admissibility of any opinion testimony from lay witnesses pursuant to Federal Rule of Evidence 701 shall set forth separately each such objection, clearly and concisely, in their pretrial memorandum. Such objection shall describe *with particularity* the ground and the authority for the objection. Unless the Court concludes at the trial *de novo* that manifest injustice will result, the Court can be expected to *overrule* any objection offered *at the trial de novo* in respect to any matter covered by (a), (b), (c) and/or (d) above, if the Court concludes that the objection should have been made as required by this Order.

8. Only those exhibits, discovery items and expert witnesses identified in the manner set forth in this Order shall be considered by the Court for admission into evidence at the trial *de novo*, unless stipulated to by all affected parties and approved by the Court, *or* by Order of Court so as to avoid manifest injustice.

9. Because a witness may be unavailable at the time of the trial *de novo* in the manner defined in Federal Rule of Civil Procedure 32(a)(3), the Court expects use of oral or videotaped depositions at the trial *de novo* of *any witness* whose testimony a party believes essential to the presentation of that party's case, whether that witness is a party, a non-party or an expert. The unavailability of any such witness *will not be a ground to delay* the commencement or progress of an ongoing trial. In the event a deposition is to be offered, the offering party shall file with the Court, prior to the commencement of the trial *de novo*, a copy of the deposition, but only after all efforts have been made to resolve objections with other counsel. Unresolved objections shall be noted in the margin of the deposition page(s) where a Court ruling is necessary.

JOHN R. PADOVA, J.

SCHEDULING INFORMATION REPORT

Return completed form to Room 6614 at least three (3) days before the pretrial conference

Caption: _____

Civil Action No.: _____

Jury Trial _____ Non-Jury Trial _____ Arbitration _____

Plaintiff's Counsel: _____

Address: _____

Phone: _____ Fax: _____

Defendant's Counsel: _____

Address: _____

Phone: _____ Fax: _____

Have you complied with the duty of self-executing disclosure under Section 4.01 of The Civil Justice Expense and Delay Reduction Plan for the United States District Court for the Eastern District of PA?

_____ When? _____ If not, why? _____

Discovery completed? _____ If not, when? _____

If you contend the discovery period should exceed four months after the last appearance by all defendants is filed, please state reasons:

Ready for trial by: _____

Date

Is a settlement conference likely to be helpful? _____

If so, when: Early _____ (yes/no) After discovery _____

Do you expect to file a case-dispositive motion? _____

If so, by what date? _____

Trial time estimate: _____

Time to present your case: _____

Time for entire trial: _____

Date: _____

Signature of counsel preparing the form

Typed or printed name